(3)

RP-102 Single Bench

IN THE HIGH COURT OF CHHATTISGARH JUDICATURE AT BILASPUR

Writ Petition No.3952/04

Petitioner : Jagannath Prasad Sharma,
Son of Shri Mahavir Prasad Sharma,
Assistant Teacher,
Primary School Bardula,
Tehsil Gariyaband, District - Raipur, Chhattisgarh.

P.R. No. 3949/04
Presented by Shri ...
dated 18/10/04

Versus

Respondents :

1. State of Chhattisgarh,
Through Secretary,
Tribal Development Department,
Mantralaya, D.K.S.Bhawan,
Raipur, Chhattisgarh.

2. Commissioner,
Tribal Development Department,
Raipur, Chhattisgarh.

3. Assistant Commissioner,
Tribal Development Department,
Raipur, Chhattisgarh.

Clerk to A.G. Bilaspur 18/10/04

WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA:

(50)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 3952 सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

23.2.2005

Shri Sachin Singh Rajput, counsel for the petitioner.

Shri Sandeep Dubey, Panel Lawyer for the State/respondents 1 to 3 on advance copy.

Heard on admission.

The case of the petitioner is that the petitioner is an Assistant Teacher, posted at Primary School Bardula, Gariyaband, District-Raipur(C.G.). On 12.9.2002, the petitioner was placed under suspension and his headquarter was changed from Gariyaband to Mainpur. On 18.10.2002, a charge sheet was issued to the petitioner and departmental enquiry was conducted against him.

Learned counsel for the petitioner submits that in the departmental enquiry, all the 4 charges leveled against the petitioner were held to be not proved by the enquiry officer(Annexure P-3). However, the disciplinary authority passed impugned order dated 5.8.2004, holding the petitioner guilty of the charges number 1 & 2. Consequently, punishment order was passed and one annual increment was directed to be withheld with non cumulative effect. The petitioner was directed to be reinstated. The period of suspension was also directed to calculated as service period for the purpose of pension etc. In spite of Gariyaband, the petitioner was directed to join at Primary Schoo, Kuchanga, Block Mainpur. Learned counsel for the petitioner very fairly submits that the petitioner has filed a departmental appeal against the impugned order dated 5.8.2004. He further submits that the appeal is still pending before the appellate authority. In this view of matter, he prays that the appellate authority may be directed to decide the appeal at the

Gr. PRJ—FS/350—12/2000—50,000.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

earliest and the petitioner may also be allowed to raise his grievance of change of his place of posting from Gariyaband to Kuchanga before the appellate authority.

It is needless to say that what jurisdiction shall be exercised by the appellate authority while entertaining an appeal against the order of punishment. If the order as a whole is under challenge then certainly each and every grievance, pertaining to the order is the subject matter of appeal before the appellate authority.

Since an alternative remedy has been availed by the petitioner and the appeal is pending before the appellate authority, this Court is not inclined to entertain this petition at this stage.

The petition is dismissed. However, it is expected that the appellate authority will consider all the points raised by the petitioner in the appeal and shall pass an appropriate order in accordance with law and shall also try to dispose of the appeal as early as possible, preferably within a period of 6 months from the date of production of certified copy of this order before him.

Certified copy as per rules.

Sd/-
Sunil Kumar Sinha
Judge

Sunita

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